

City Council Introduction: **Monday**, August 18, 2003
Public Hearing: **Monday**, August 25, 2003, at **1:30 p.m.**

Bill No. 03-132

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3385**, from AGR Agricultural Residential to R-1 Residential, requested by Vic and Kathleen Hannan, on property generally located northeast of the intersection of South 66th Street and Pine Lake Road.

STAFF RECOMMENDATION: Deferral.

ASSOCIATED REQUESTS: Waiver No. 03000 (03R-229) and Final Plat No. 03014, Hannan Addition (03R-230).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/30/02, 11/27/02, 12/11/02 and 2/19/03
Administrative Action: 02/19/03

RECOMMENDATION: Approval (6-0: Newman, Carlson, Taylor, Bills-Strand, Duvall and Schwinn voting 'yes'; Krieser, Larson and Steward absent).

FINDINGS OF FACT:

1. This change of zone request and the associated waiver of design standards are also associated with an administrative final plat, and were heard at the same time before the Planning Commission. The associated administrative final plat was denied by the Planning Director due to access being shown on Pine Lake Road, which had been relinquished with the preliminary plat. Therefore, the associated Hannan Addition Final Plat No. 03014 was brought forward to the Planning Commission. This change of zone and the waiver of design standards were not scheduled on the City Council agenda, pending resolution of the access issues on the final plat.
2. The staff recommendation to defer the change of zone request was based upon the "Analysis" as set forth on p.3, concluding that this change of zone request is generally consistent with the Comprehensive Plan; however, the associated final plat does not show how access will be provided to the lots created. The applicant must demonstrate that the proposed subdivision can be completed in a way that is consistent with the Land Subdivision Ordinance.
3. This change of zone request first appeared on the Planning Commission agenda on October 30, 2002, and was delayed at the request of the applicant until February 19, 2003, when the associated waiver of design standards came forward.
4. The applicant's testimony is found on p.6-8, wherein Mark Hunzeker, the applicant's representative, testified that the purpose of the change of zone is to divide the 3.5 acre lot into two lots, one being 2 acres and the other about 1.5 acres. The issue of access will need to be determined on the final plat. Without this change of zone, the property cannot be subdivided.
5. There was no testimony in opposition.
6. The Planning Commission discussion with staff is found on p.7.
7. On February 19, 2003, the Planning Commission disagreed with the staff recommendation and voted 6-0 to recommend approval of the change of zone request (See Minutes, p.8), recognizing that the access issue still needed to be resolved and its resolution could limit the applicant's plans for the property.
8. At the request of the applicant, this change of zone request and the associated waiver request were held and not scheduled on the City Council agenda until the associated final plat came forward.
9. If the City Council approves the Hannan Addition Final Plat with access to Pine Lake Road, then the staff would recommend that this change of zone be approved.

FACTSHEET PREPARED BY: Jean L. Walker

REVIEWED BY: _____

REFERENCE NUMBER: FS\CC\2003\CZ.3385

DATE: August 12, 2003

DATE: August 12, 2003

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3385

DATE: October 16, 2002

SCHEDULED PLANNING COMMISSION MEETING: October 30, 2002

PROPOSAL: A change of zone from AGR Agricultural Residential to R-1 Residential.

LAND AREA: Approximately 3.56 acres.

CONCLUSION: This change of zone request is generally consistent with the Comprehensive Plan, however the associated final plat does not show how access will be provided to the lots created. The applicant must demonstrate that the proposed subdivision can be completed in a way that is consistent with the Subdivision Ordinance.

RECOMMENDATION:

Deferral

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, Block 1, Country Place 7th Addition, Lancaster County, Nebraska.

LOCATION: Northeast of the intersection of South 66th Street and Pine Lake Road.

EXISTING ZONING: AGR Agricultural Residential

EXISTING LAND USE: Single-family Residential

SURROUNDING LAND USE AND ZONING:

North:	Single-family Residential	AGR
South:	Single-family Residential	AGR
East:	Single-family Residential	AGR
West:	Single-family Residential	AGR

HISTORY: FP#88210 Country Place 7th Addition was approved April 7, 1988 creating Lots 1 and 2, Block 1. This administrative plat re-subdivided Lots 1 and 2, Country Place Addition making Lot 2 slightly larger.

FP#86502 Country Place Addition was approved October 21, 1986 creating Lots 1 through 4, Country Place Addition.

ASSOCIATED APPLICATIONS: FP#02071 Hannan Addition, an administrative final plat under review to subdivide Lot 1, Country Place 7th Addition into two lots.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F15 - Guiding Principles from the Comprehensive Plan Vision

- The One Community Vision: An important relationship exists between the urban, rural and natural landscapes. Urban and rural development maximizes the use of land in order to preserve agriculture and natural resources.

Page F17 - Guiding Principles for the Urban Environment

- Overall Form: Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods.

Page F18 - Guiding Principles for the Urban Environment

- Residential Neighborhoods: Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood.

Page F24 - Future Land Use Map

- This land is designated as Low Density Residential in the Land Use Plan.

Page F27 - Future Land Use Map Implementation

- Low Density Residential: Residential areas ranging from 1 to 5 acres per dwelling unit, with a typical density of 3 acres per dwelling unit. Such residential developments are often referred to as acreages.

Page F103 - Future Functional Classification: City Streets

- This map identifies Pine Lake Road from South 14th Street to approximately South 120th Street as an Urban/Rural Minor Arterial Street

UTILITIES: This area is within the Future Service Limit of the Comprehensive Plan. A connection fee would be required to connect to the 15" public sanitary sewer in Pine Lake Road. There is a 24" water main in Pine Lake Road, however it cannot be tapped to provide service to the proposed Lot 2.

TRAFFIC ANALYSIS: Pine Lake Road is classified as a minor arterial adjacent to this site. The Comprehensive Plan states that "This class interconnects with, and augments principal arterials, distributes traffic to smaller areas, and contains streets that place some emphasis on land access. These are characterized by moderate to heavy traffic volumes" (page F103 - Minor Arterials).

Improvements are scheduled and funds are allocated in the City's Capital Improvement Program (CIP) over the next four years to widen Pine Lake Road to a four lane roadway. As a minor arterial, driveway access onto Pine Lake Road is restricted, and as a result the right of vehicular access was relinquished with the final plat of Country Place 7th Addition.

PUBLIC SERVICE: This area is served by City of Lincoln public safety services and by Lincoln Public Schools.

ANALYSIS:

1. This request is to change the zoning on a lot that is part of a larger, residentially-developed area between South 66th and South 70th Streets, north of Pine Lake Road. Adjacent to the north of this property is Country Meadows, an acreage development that was annexed in April of 1995 to allow the area to be served by municipal sanitary sewer service. Development is low density, single-family residential where the lots are approximately one acre in area or larger.
2. This change of zone request is accompanied by an administrative final plat which shows the 3.5 acre lot being divided to create a 2 acre lot and a 1.5 acre lot. If approved, the plat would allow for a more efficient use of land, and is supported by the Comprehensive Plan. It is the type of re-subdivision anticipated to occur within older, acreage developments as they become engulfed by the city and it becomes economical to do so. The more efficient use of land also results in better utilization of municipal infrastructure.
3. However, additional development in existing subdivisions must be done in a way that is consistent with surrounding uses and infrastructure. The proposed final plat does not acknowledge that the right of driveway access onto Pine Lake Road has been relinquished, and as shown does not provide access to Lot 2.
4. The final plat as presented shows the creation of lots of approximately the same size as others in the neighborhood. However, as the city continues to grow in this direction, it is likely there will be pressure to further subdivide these lots to R-1 density (9,000 square feet). This plat should be accompanied by a preliminary plat that shows how the R-1 density can be achieved at full build-out to ensure a plan is not approved that may prohibit this from happening in the future.
5. Further subdivision such as this is desirable, and results in a more efficient use of land and infrastructure. However, it must be done in a manner consistent with planned improvements and surrounding infrastructure. To ensure these issues are being considered, the applicant must provide a plan that demonstrates the proposed development is compatible in this regard. The Planning Staff will gladly meet with the applicants to discuss plans.

Prepared by:

Brian Will, AICP
Planner

APPLICANT/

OWNER: Vic and Kathleen Hannan
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CONTACT: Brian Carstens
601 Old Cheney Road Suite C
Lincoln, NE 68512
(402) 434-2424

CHANGE OF ZONE NO. 3385

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 30, 2002

Members present: Krieser, Larson, Carlson, Newman, Bills-Strand, Taylor and Schwinn; Duvall and Steward absent.

Staff recommendation: Deferral

Proponents

1. **Brian Carstens** appeared on behalf of the applicants and requested a four-week deferral. This will give him an opportunity to resolve the issues on the associated administrative final plat.

Larson moved to defer four weeks, with continued public hearing and administrative action scheduled for November 27, 2002, seconded by Carlson and carried 7-0: Krieser, Larson, Carlson, Newman, Bills-Strand, Taylor and Schwinn voting 'yes'; Steward and Duvall absent.

There was no other public testimony.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 27, 2002

Members present: Steward, Larson, Krieser, Bills-Strand, Carlson, Newman and Schwinn; Duvall and Taylor absent.

Staff recommendation: Deferral

Proponents

1. **Brian Carstens** appeared on behalf of the applicants and requested an additional two-week delay until December 11, 2002, to work with staff on some issues.

Newman moved to defer, with continued public hearing and administrative action scheduled for December 11, 2002, seconded by Bills-Strand and carried 7-0: Steward, Larson, Krieser, Bills-Strand, Carlson, Newman and Schwinn voting 'yes'; Duvall and Taylor absent.

CHANGE OF ZONE NO. 3385

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 11, 2002

Members present: Carlson, Newman, Larson, Duvall, Bills-Strand, Taylor, Steward, and Schwinn; Krieser absent.

Staff recommendation: Deferral.

Proponents

1. **Brian Carstens** appeared on behalf of the applicant and requested that this application be placed on the pending list until an associated waiver on the administrative final plat comes forward.

Carlson moved to place on pending, seconded by Newman and carried 8-0: Carlson, Newman, Larson, Duvall, Bills-Strand, Taylor, Steward and Schwinn voting 'yes'; Krieser absent.

There was no other public testimony.

CHANGE OF ZONE NO. 3385

and

WAIVER NO. 03000

PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 19, 2003

Members present: Newman, Carlson, Taylor, Bills-Strand, Duvall and Schwinn; Krieser, Larson and Steward absent.

Staff recommendation: Deferral of the change of zone and approval of the waiver.

There were no ex parte communications disclosed by the Commissioners.

Proponents

1. **Mark Hunzeker** appeared on behalf of **Vic Hannan**, the owner of the lot which is the subject of this application. The purpose of this change of zone is to divide this 3.5 acre lot into two lots by administrative final plat, one of which would be approximately 2 acres and the other about 1.5 acres. As the staff report indicates, this is something that would allow for more efficient use of the land and is supported by the Comprehensive Plan. It is the type of resubdivision that the Comprehensive Plan anticipates to occur within older acreage subdivisions.

Hunzeker suggested that the staff report seems a bit inconsistent on the change of zone in that it says it is consistent with Comprehensive Plan; is more efficient use of the land; and consistent with the surrounding area, but that it should be accompanied by a preliminary plat that says we are subject to R-1 densities. Hunzeker does not know where that comes from. It is not the intent of the owner nor the desire of the surrounding property owners to see this divided into lots of that size. The entire Country Meadows subdivision is one to two-acre lots. All of the lots in this subdivision are developed with fairly significant homes. It is very, very unlikely that there would be resubdivision of this area into 9,000 sq. ft. lots with 60' of frontage. The lots are mostly too deep to meet the subdivision requirements with 60' of frontage. He does not believe most of the people out there would be willing to give up any of their yards to do that and he does not believe they would be very happy to see that occur anywhere within Country Meadows.

Country Meadows has rural standard asphalt streets, which are not necessarily designed to accommodate urban density types of uses. "We've been through this in several other locations." This is the kind of project which is consistent with what exists and what is anticipated in the Comprehensive Plan.

Hunzeker noted that the staff is recommending approval of the waiver requests on the administrative final plat. He acknowledged that they do need to resolve a couple of issues with Public Works prior to City Council hearing. Those issues pertain to access to Pine Lake Road, which was relinquished in the Country Meadows subdivision. He believes they may be able to get access to this lot by paying for some portion of the upgrading of Pine Lake Road as it abuts the new lot. This is the direction they have been headed and they need to work out the water service issues. Hunzeker requested that the Commission vote on both applications and forward them on to the City Council.

Carlson suggested putting the cul-de-sac on Ann's Court, even though it is on other people's property. Hunzeker believes there are two houses to the north of this lot that come off of Ann's Court, as opposed to one as shown on the aerial photo. He also believes it would be very difficult to convince the owners of those properties to give this owner some access.

There was no testimony in opposition.

Staff questions

Carlson asked staff to respond to the access issue. Brian Will of Planning staff agreed that to be the issue and the staff report focuses on that issue in #3 of the Analysis. The issue isn't so much that we want to see how this property can be developed into 9,000 sq. ft. lots, although we think it would be a good idea. The real issue is how can this property be further subdivided and how can we provide access to it. This change of zone was accompanied by an administrative final plat to subdivide into two lots. Staff noted that access to Pine Lake Road had been relinquished and, during the course of staff review, staff was not willing to provide another driveway onto Pine Lake Road, which is an arterial. The discussion has been around the issue of how this property can be subdivided and provide access without another driveway on Pine Lake Road. The recommendation for deferral on the change of zone is because the issue of access needs to be resolved prior to approving the change of zone. Staff is not opposed to the further subdivision but needs to have the access issue resolved.

Carlson wondered whether staff has another solution. Will referred to #5 of the staff Analysis, which indicates that several potential options for providing access have been discussed among staff; however, the staff would not be able to respond on the applicant's behalf as far as feasibility of any of those options. The recommendation of deferral suggests that the staff be given the opportunity to work with the applicant on other options.

Schwinn referred to Country Meadows and Lee Summit to the north, which are AGR zoning and which have been annexed. Is they on city water? Will acknowledged that those properties are on city water. There is access to municipal services. Schwinn noted that there are a lot of driveways on the south side of Pine Lake Road.

Response by the Applicant

Hunzeker stated that it is not as if the applicant hasn't had any discussion about the access issue. There are two potential ways to get to this property: 1) by taking a second driveway in off of 66th Street, which creates a very unsightly means of access as it relates to the existing house and a very, very long driveway--this is not desirable; or 2) the applicant has had conversations with

Planning and Public Works about the possibility of regaining access to Pine Lake Road and it has been suggested that that would cost this owner the equivalent of one-half of a local street paving along the frontage of the new lot (which at this point in time the owner is prepared to discuss seriously, if not agree upon). Both that and the issue of water service can be worked out between now and the time this has to be dealt with by City Council. The rezoning of this site does not require having those things worked out. Frankly, this rezoning plus the waivers of the design standards will facilitate having this finalized when we get to City Council. If we can't do that, this is going to have to sit for awhile. The alternative is for this to sit a very long time with the excess land ultimately being incorporated into property that goes to the corner of 70th and Pine Lake Road. The only thing between here and that corner is a very small church building which, given the development that is likely to occur in this area over the next several years, could very easily become assembled into something other than residential uses. We think this is a way to set this up for residential use for the foreseeable future, and if it is unable to be done, then it will just be a parcel with excess land that will ultimately become part of the corner parcel.

In response to questions posed by Schwinn, Hunzeker indicated that without the change of zone, the property cannot be subdivided.

Carlson believes that the access issue remains even if the Planning Commission approves the change of zone to R-1. Hunzeker concurred. The access was relinquished as part of the Country Meadows plat. The change of zone will not fix the access problem. Without the access issue being resolved to the satisfaction of the Planning Director, he is not going to approve the administrative plat.

Schwinn assumes that the Hannans go into this change of zone knowing that they may not get there. Hunzeker acknowledged this fact.

Public hearing was closed.

CHANGE OF ZONE NO. 3385

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 19, 2003

Bills-Strand moved to approve the change of zone from AGR to R-1, seconded by Duvall. Bills-Strand believes the details can be left to the City Council.

Carlson stated that he will support the motion because he is supporting the concept of subdividing the parcels. He agrees that the access needs to be worked out.

Motion for approval carried 6-0: Newman, Carlson, Taylor, Bills-Strand, Duvall and Schwinn voting 'yes'; Krieser, Larson and Steward absent.

WAIVER NO. 03000

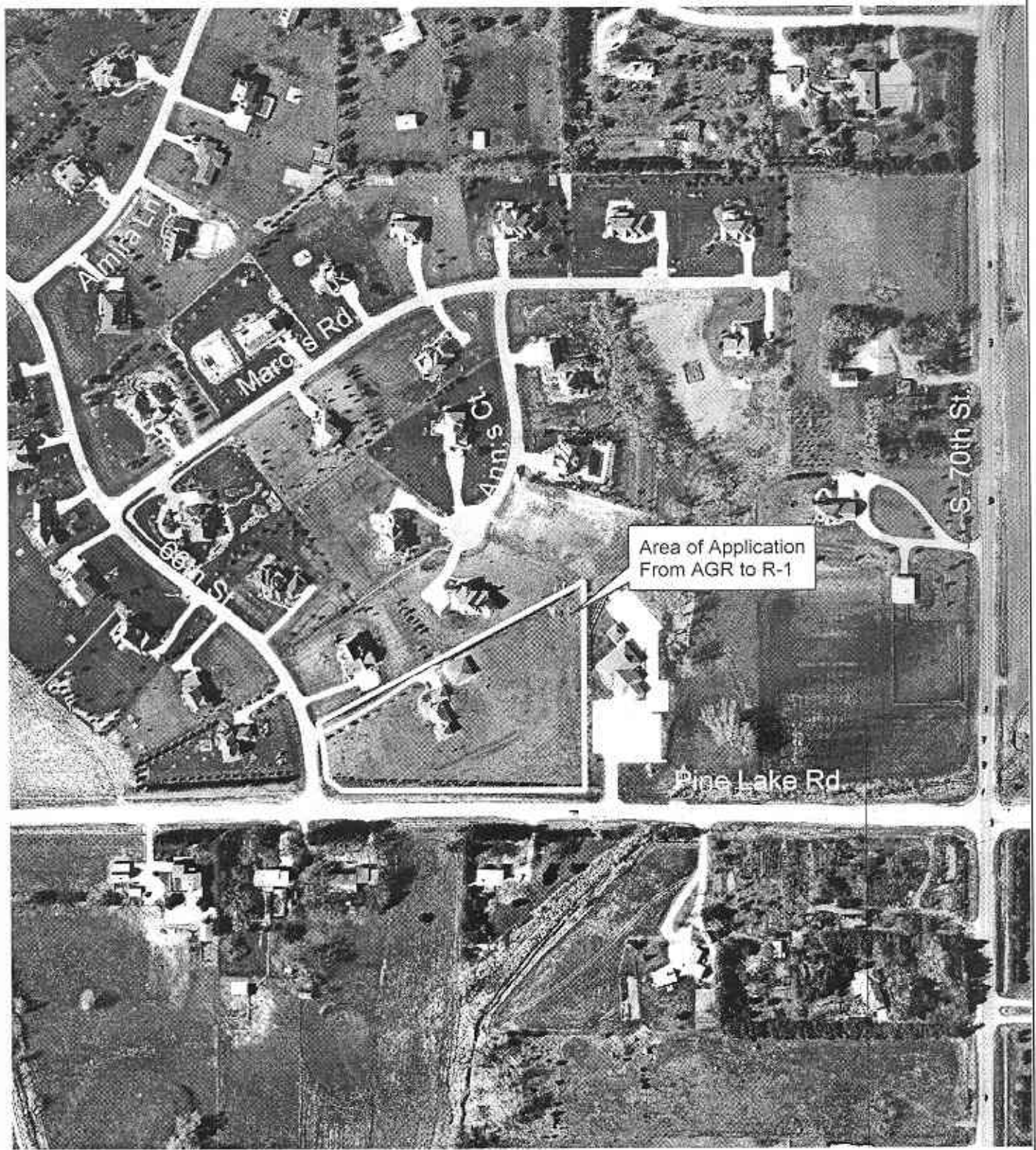
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 19, 2003

Duvall made a motion to approve, seconded by Bills-Strand.

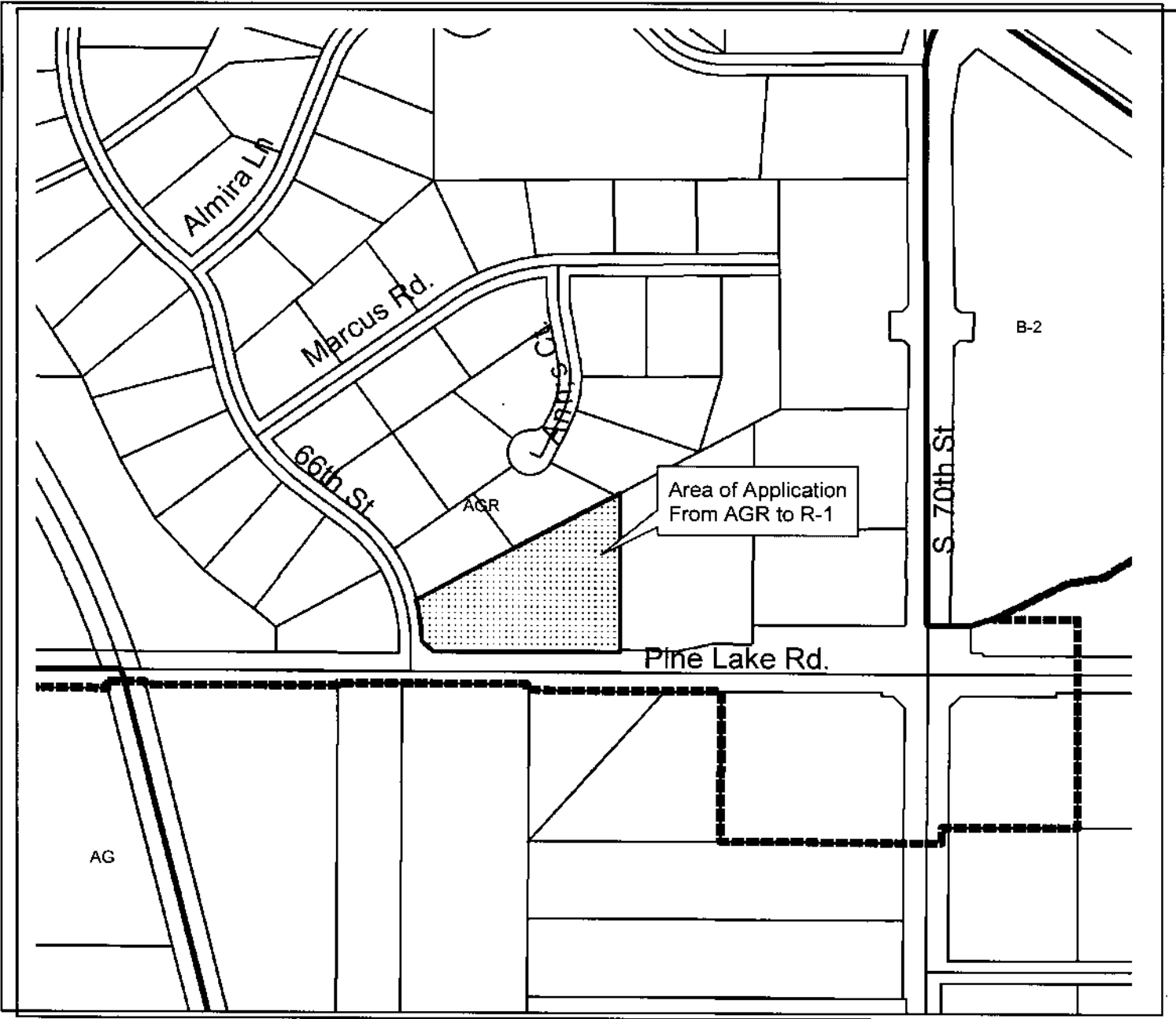
Carlson noted that it is not a condition of approval, but it should be noted that the owner will agree to the creation of a sidewalk district in the future and he thinks this is appropriate. Schwinn believes the sidewalk district is part of the Pine Lake Road project.

Motion for approval carried 6-0: Newman, Carlson, Taylor, Bills-Strand, Duvall and Schwinn voting 'yes'; Krieser, Larson and Steward absent.



Change of Zone #3385
S. 66th & Pine Lake Rd.



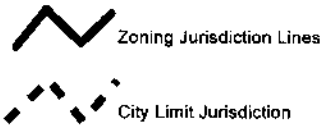
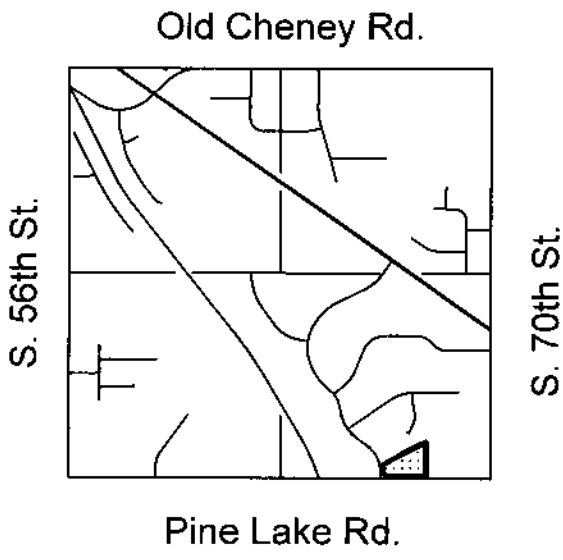


Change of Zone #3385 **S. 66th & Pine Lake Rd.**

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
Sec. 16 T9N R7E



HANNAN ADDITION

CHANGE OF ZONE EXHIBIT
'AGR' TO 'R-1'

CITY OF LANCASTER
PLANNING DEPARTMENT

OCT 3 2002

THE FIVE

COUNTRY

LEE'S

COUNTRY
MEADOWS
3RD ADD.

SUMMIT

MEADOWS

COUNTRY

SECOND

COUNTRY

FIRST

ADD.

COUNTRY

MEADOWS

ADD.

COUNTRY

22ND

ADD.

PLACE

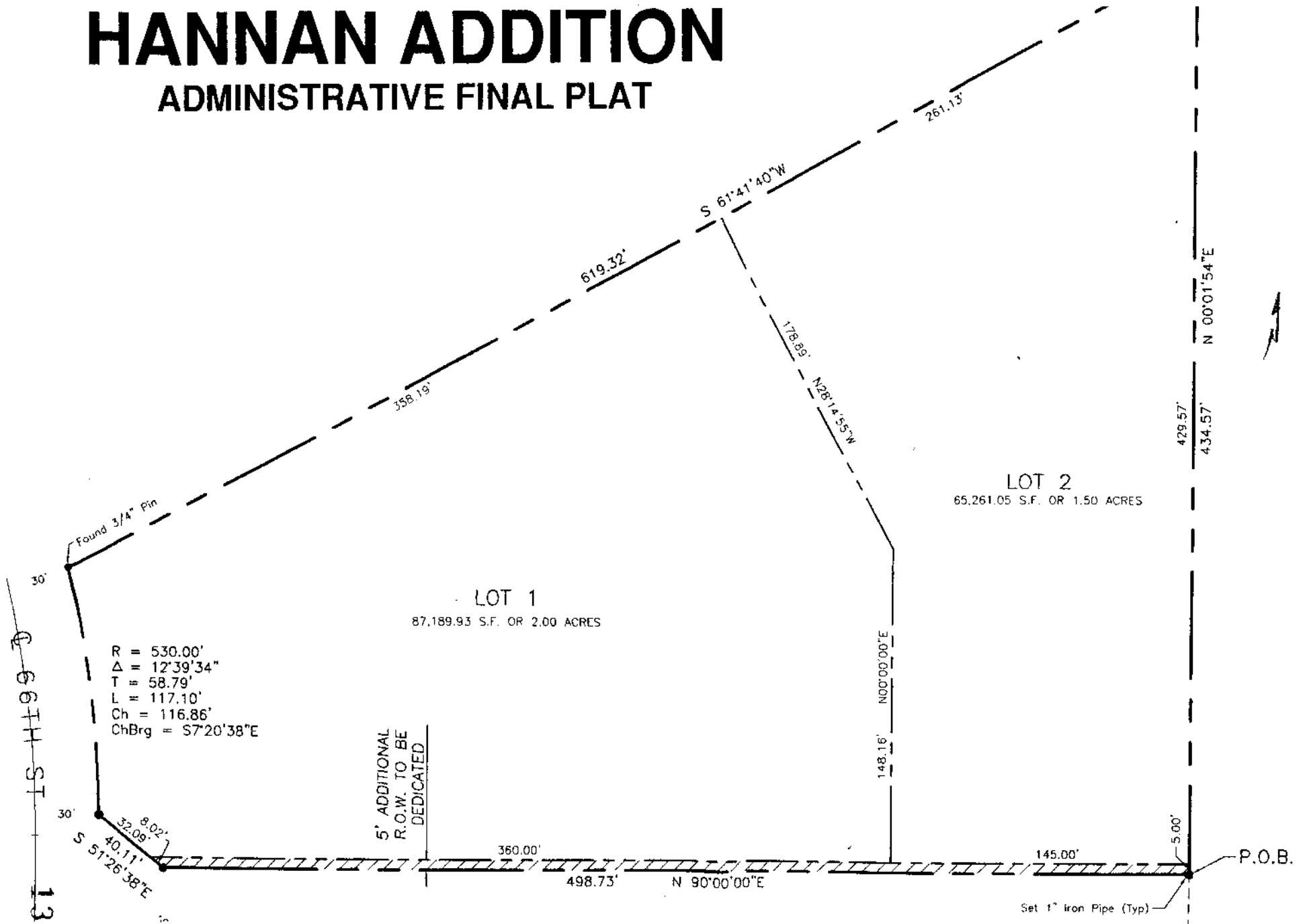
AREA OF
CHANGE OF ZONE



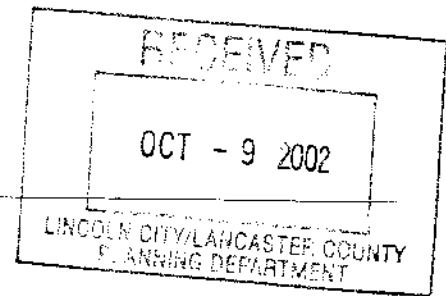
SCALE: NONE

HANNAN ADDITION

ADMINISTRATIVE FINAL PLAT



M e m o r a n d u m



To: Brian Will, Planning Dept.

From: ⁶⁶Bruce Briney, Public Works and Utilities

Subject: Administrative Final Plat #02071, Hannan Addition
Change of Zone #3385, Hannan Addition

Date: October 8, 2002

cc: Nicole Fleck-Tooze
Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the application for Administrative Final Plat #02071 and the Application for Change of Zone #3385, Hannan Addition, located at South 66th Street and Pine Lake Road and has the following comments:

- Sanitary Sewer - Public sanitary sewer service to the proposed lots would require a connection fee to connect to the existing 15" sanitary sewer main in Pine Lake Road.
- Future improvements to Pine Lake Road will include a divided roadway with raised medians.

Public Works recommends denial of both the application for Administrative Final Plat #02071 and the application for Change of Zone #3385 for the following reasons:

- Water Main - The 24" water main in Pine Lake Road cannot be tapped to provide water service to the proposed Lot 2.
- The right of direct vehicular access from existing Block 1 Lot 1 of Country Place 7th Addition to Pine Lake Road was relinquished April 14, 1988.
- Change of Zone - Public Works objects to the application for change of zone from AGR to R-1 due to the relinquished right of direct vehicular access from existing Block 1 Lot 1 of Country Place 7th Addition to Pine Lake Road..